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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,368	07/31/2003	Robert Fish	9432-000223	2142
27572 7590 03/14/2007 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER DESIRE, GREGORY M	
			ART UNIT 2624	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/14/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/631,368	<b>Applicant(s)</b> FISH ET AL.	
	<b>Examiner</b> Gregory M. Desire	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/31/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Robins et al (7,084,918).

Regarding claims 1, 9 and 13 Robins discloses,

Capturing image data for a target subject having at least one eye (note fig. 2 block 202, col. 2 lines 5-15 and col. 6 lines 7-25, triggering the camera and previewing the subject);

Evaluating said image data to determine whether said at least one eye is open or closed (note col. 7 lines 28-40, examiner interprets determining image has enough sclera evaluates whether eyes are open or close, sufficient sclera open and insufficient sclera eyes are closed); and

Performing at least one camera operation based upon whether the eyes of the target subject are open or closed (note col. 2 lines 17-21 and col. 8 lines 11-14

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examiner interprets actuating as a camera operation).

Regarding claims 3 and 15,

Collecting said image data using an image sensor (note fig. 1, 136 and col. 3 lines 31-36);

Converting said image data into a digital image form using said image processor (note col. 3 lines 35-36); and

Storing said digital image form in a transient memory space accessible to the image processor (note col. 2 lines 29-31).

Regarding claims 4, 7 and 20,

Wherein deleting said image data from the transient memory space when at least one of the eyes of the target subject are closed (similar to previewing an image to an operators satisfaction (note col. 2 lines 10-25).

Regarding claims 5, 10 and 17,

Transferring said image data to a permanent memory space when the eyes of the target subject are open (note col. 2 lines 59-61).

Regarding claims 6, 11 and 18,

Displaying the image data to the camera operator for review (note col. 2 lines 14-16).

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Regarding claims 8, 12 and 16,

Detecting one or more faces in said image data (note col. 7 lines 13-18)

Partitioning said image data into a plurality of data segments, such that each data segment includes a portion of one face;

Evaluating each of the data segments to determine whether at least one eye of the target subject is closed (note fig. 3 block 208).

Regarding claim 14,

Activating a shutter mechanism of the camera by a camera operator (note col. 2 lines 17-21).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robins in view of Pryor (7,015,950).

Regarding claims 2 and 19,

Robins disclose performing at least one camera operation. Robins does not clearly disclose providing an alert to the camera operator when at least one of the eyes of the target subject is closed. Pryor discloses providing an alert to the camera operator

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when at least one of the eyes of the target subject is closed (note col. 8 lines 8-20).

Robins and Pryor are combinable because they are from the same field of endeavor.

Therefore, it would be obvious to one of ordinary skill in the art to include providing an alert to a person when eyes are closed in the system of Robins as evidenced by Pryor.

The suggestion/motivation for doing so would have been a harmless alert system that does not bother the person involved (note col. 8 lines 18-20). Therefore, it would have been obvious to combine Robins with Pryor to obtain the invention as specified in claims 2 and 19.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robins in view of Bates (6,930,707).

Regarding claim 21,

Robins disclose performing at least one camera operation. Robins does not clearly disclose performing iris recognition. Bates discloses performing iris recognition (note col. 6 lines 56-67). Robins and Bates are combinable because they are from the same field of endeavor. Therefore, it would be obvious to one of ordinary skill in the art to include perform iris recognition when eyes are open in the system of Robins as evidenced by Bates. The suggestion/motivation for doing so would have been enhancing the functions of digital cameras (note col. 1 lines 51-58). Therefore, it would have been obvious to combine Robins with Bates to obtain the invention as specified in claim 21

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

G.D.  
March 9, 2007

GREGORY DESIRE  
PRIMARY EXAMINER

*Gregory Desire*